

**DEPARTMENT OF INSURANCE
STATE OF CALIFORNIA
45 Fremont Street, 21st Floor
San Francisco, California 94105**

RH-01016587

July 26, 2002

**NOTICE OF PROPOSED ACTION AND
NOTICE OF PUBLIC HEARING**

SUBJECT OF HEARING

Notice is hereby given that California Insurance Commissioner Harry W. Low will hold a public hearing on September 19, 2002, at 1:00 p.m., in San Francisco, regarding proposed amendments to the California Low Cost Automobile Insurance Program Plan of Operations pertaining to transfer procedures under a buy-out contract for Program policies already in force.

AUTHORITY AND REFERENCE

The Insurance Commissioner proposes changes to the California Automobile Insurance Low Cost Program Plan of Operations, referenced in Title 10, Chapter 5, Subchapter 3, Article 8, Section 2498.6 of the California Code of Regulations, pursuant to the authority vested in him by California Insurance Code Sections 11629.7, 11629.79, 11629.9 and 11629.99. The purpose of these amendments is to implement, interpret, and make specific the provisions of California Insurance Code Sections 11623.5, 11629.7, 11629.79, 11629.9, and 11629.99.

HEARING DATES AND LOCATIONS

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulations at the following date, time, and place:

Date and Time:	September 19, 2002 1:00 p.m.
Location:	State Building, Hearing Room 9 455 Golden Gate Avenue San Francisco, California 94102

ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for this hearing in order to make special arrangements, if necessary.

WRITTEN AND/OR ORAL COMMENTS: AGENCY CONTACT PERSON

All persons are invited to submit written comments to the Insurance Commissioner on the proposed regulations. Comments should be addressed to the contact person for this proceeding:

Mary Ann Shulman, Staff Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Shulmanm@insurance.ca.gov
Telephone: (415) 538-4133
Facsimile: (415) 904-5490

The backup agency contact person for this proceeding will be:

Elizabeth Mohr, Assistant Chief Counsel
California Department of Insurance
Rate Enforcement Bureau
45 Fremont Street, 21st Floor
San Francisco, CA 94105
MohrE@insurance.ca.gov
Telephone: (415) 538-4112
Facsimile: (415) 904-5490

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on September 19, 2002**. Any written materials received after that time will not be considered.

Comments submitted by e-mail and facsimile transmission will be accepted and considered.

QUESTIONS REGARDING REGULATIONS

General and substantive questions regarding the regulations should be directed to the contact person listed above.

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAW

California Insurance Code (CIC) Sections 11629.7 through 11629.84 establish, within the California Automobile Assigned Risk Plan (CAARP), a low-cost automobile insurance pilot program for the County of Los Angeles. California Insurance Code Sections 11629.9 through 11629.995 establish, within the California Automobile Assigned Risk Plan, a low-cost automobile insurance pilot program for the City and County of San Francisco.

The pilot programs are authorized to commence operations on January 1, 2000, and shall be fully operational no later than July 1, 2000. The low-cost policy satisfies the financial responsibility laws and provides coverage of \$10,000 for liability for bodily injury or death to one person, subject to a cumulative limit of \$20,000 for all persons in one accident, and \$3,000 for liability for damage to property. Annual premium rates and payment installment options are set forth in the statute, as well as procedures for adjusting the rates. In certain cases, surcharges are added to the base rate. The statute sets forth eligibility and application requirements, as well as grounds for cancellation and nonrenewal of policies.

Existing law, CIC 11629.7 and 11629.9, requires the Commissioner to approve or issue a reasonable plan for the equitable apportionment, among insurers, of persons residing in the County of Los Angeles and the City and County of San Francisco who are eligible to purchase a low-cost automobile insurance policy through the pilot programs. CIC Sections 11629.79 and 11629.99 require the Commissioner, in consultation with the California Automobile Assigned Risk Plan, to adopt regulations to implement the low cost automobile insurance pilot programs. These amendments to the regulation are intended to comply with those statutory mandates.

Because the low cost automobile insurance pilot programs are established and administered through the California Automobile Assigned Risk Plan, established under Section 11620 of the Insurance Code, the procedures and requirements applicable to the low cost automobile insurance pilot programs are the same as the procedures and requirements applicable to the assigned risk plan, where appropriate and not inconsistent with the low cost automobile insurance statutes.

Section 2498.6 of the California Code of Regulations (Title 10, Chapter 5, Subchapter 3) references the separate California Automobile Insurance Low Cost Program Plan of Operations, approved by the Commissioner, and sets forth procedures for obtaining a copy of the Plan of Operations. The regulation implements, interprets, and makes specific CIC §§ 11629.7-11629.995.

The proposed amendments refer to sections of the Plan of Operations.

POLICY STATEMENT OVERVIEW

The proposed amendments to the statutorily required plan are intended to clarify procedures regarding the transfer of policies already in force under a buy-out contract. Because the current provision in the Plan of Operations was written before the low cost automobile insurance program began, it does not address policies in force when an insurer decides to enter into a buy-out contract with another insurer to assign its low-cost automobile insurance business. The purpose of the proposed amendments is to address a situation that was not contemplated in the existing Plan of Operations. The proposed changes fill this gap to avoid confusion as to the obligations of the buy-out company and servicing company.

Section 8 B. Limited Assignment Distribution Procedure

Section 8 B on Limited Assignment Distribution Procedures in the current Plan of Operations sets forth general standards for buy-out arrangements of an insurer's low-cost automobile insurance quota. It does not specifically set forth standards for the transfer of policies already in force. A new proposed provision, subsection 7, clarifies transfer requirements and procedures for a policy already in force at the time an insurer enters into a buy-out agreement to assign its program renewal business. The new provision makes clear the obligations of the buy-out company with respect to the transfer of program policies already in force.

The other proposed changes re-number existing sections of the Plan of Operations for clarity and sequential consistency as a result of the addition of the new subsection.

COMPARABLE FEDERAL LAW

There are no existing comparable federal regulations or statutes.

PRE-NOTICE PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

Pursuant to California Government Code Section 11346.45, the Insurance Commissioner has not circulated this regulatory language prior to publication of this Notice because these regulations were initiated, recommended, and the text drafted by AIPSO and the Advisory Committee of CAARP, on behalf of industry subscribers. Persons interested in the substance of these regulations have provided input to AIPSO and CAARP on the proposed regulations. That input has been considered in the drafting of these regulations. Moreover, these regulations do not involve a complex subject and the regulations can easily be reviewed during the comment period.

LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposed regulations will not result in any new program mandates on local agencies or school districts.

COST OR SAVINGS TO STATE AGENCIES

The Insurance Commissioner has initially determined that the proposed regulations do not impose any cost on or result in any savings to any state agency.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS/FEDERAL FUNDING

The Insurance Commissioner has initially determined that the proposed regulations will not result in any cost to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement. Nor will the proposal affect federal funding to the state.

NONDISCRETIONARY COSTS OR SAVINGS TO LOCAL AGENCIES

The Insurance Commissioner has initially determined that the proposed regulations do not impose other nondiscretionary costs or savings on local agencies

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Insurance Commissioner has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Insurance Commissioner has further determined that the adoption of these regulations will have no effect on the creation or elimination of jobs in California, the creation of new businesses or the elimination of existing businesses in California, and will have no effect on the expansion of businesses in California.

COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by them. The proposed regulations require the buy-out company to maintain policies in force and transfer policies to the servicing company at renewal only upon affirmatively determining eligibility for renewal. These are the same requirements for renewal imposed on insurers who do not assign their low cost auto insurance business. At this time, the Insurance Commissioner does not expect that a representative private person or business would necessarily incur any cost impact in reasonable compliance with the proposed action.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposed regulations will not affect housing costs.

IMPACT ON SMALL BUSINESSES

The Insurance Commissioner has initially determined that the proposed regulations will not have a significant effect on small businesses because they merely clarify existing standards.

ALTERNATIVES

The Insurance Commissioner must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The agency invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

PLAIN ENGLISH

The proposal is in plain English except to the extent that technical terms could not be avoided. Those technical terms are defined in plain English.

AVAILABILITY OF TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons which sets forth the reasons for the regulations. The Initial Statement of Reasons, together with the text of the proposed regulations, and this Notice of Proposed Action are available for inspection or will be provided at no charge upon request to a contact person listed above.

ACCESS TO COPIES OF PROPOSED REGULATIONS AND STATEMENT OF REASONS

Any interested person may inspect a copy of or direct questions about the proposed regulations, the statement of reasons, the information upon which the proposal is based, and any supplemental information contained in the rulemaking file by contacting the contact person listed above. By prior appointment, the rulemaking file is available for inspection at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, which contains the general substance of the proposed regulations, the Initial Statement of Reasons, and the text of the proposed regulations will automatically be sent to all persons on the Insurance Commissioner's mailing list.

AVAILABILITY OF MODIFIED TEXT OF REGULATIONS

If the regulations adopted by the Department differ from but are sufficiently related to the original text, the Department will make the modified text available to the public for at least 15 days prior to the date of adoption.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, a copy of the Final Statement of Reasons may be obtained by contacting the contact person listed above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons, the text of the proposed regulations, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at www.insurance.ca.gov.

HARRY W. LOW
Insurance Commissioner

By: ____/s/_____